1.SB Civil Writ Petition No. 6084/1996

Tara Chand & ors Vs Board of Revene & ors

2.SB Civil Writ Petition No. 6085/1996

Tara Chand & ors Vs Board of Revenue & ors

23.8.2006

Hon'ble Mr Justice Ashok Parihar

Mr Rajendra Prasad – for petitioners

Mr HV Nandwana, Dy GA – for respondents

BY THE COURT:

Since, on similar set of facts, orders passed by the District Collector, Bharatpur and the Board of Revenue, Ajmer are under challenge, both the writ petitions have been heard together and are being decided by this common order.

Petitioners are claiming their right over the land in dispute on the ground of cultivatory possession as Zamindar or Biswedar on the cut off date as provided under the provisions of the Rajasthan Zamindari & Biswedari Abolition Act, 1959 (hereinafter to be referred to as 'the Act'). Earlier, the land in dispute was declared as Charagah land by the District Collector, vide order dated 31.5.1962. However, subsequently, it appears that on representation been made by the petitioners, the same was released from the Charagah land vide order dated 20.5.1968. On the basis of above release order dated 20.5.1968, the mutation was made by the Tehsildar concerned in favour of

the petitioners in the revenue record vide order dated 27.7.1968. On an application submitted by the SDO on 23.3.1983, the District Collector made a reference under section 82 of the Rajasthan Land Revenue Act, 1956 to the Board of Revenue vide order dated 16.2.1991 for cancellation of above mutation. The Board of Revenue, after hearing both the parties, set aside the mutation order dated 27.7.1968 vide order dated 22.11.1996. Hence, the present writ petition challenging the orders of the District Collector as also the Board of Revenue.

The District Collector as also the Board of Revenue have observed that the entries in the revenue record could not have been made only on the mere assumption that the petitioners were in cultivatory possession until and unless it is proved that the petitioners were having any Biswedari or Zamindari rights on the cut off date i.e. 15.11.1959. No such rights were earlier claimed by the petitioners under the Act of 1959 at the relevant time. Without any proper declaration by a competent court no entries could be made in the revenue record.

Nothing has been placed on record before the District Collector or the Board of Revenue that the petitioners were in possession of the land in dispute either as Biswedar or Zamindar, as such, I find no error or illegality in the orders passed by the District Collector as also the Board of Revenue. As already observed by the

authorities below, proper rights could only be decided by a competent court in a suit for declaration.

Having considered entire facts and circumstances, since, after due consideration, proper discretion has been used by the authorities below, I find no ground for any further interference of this Court. However, it goes without saying that the petitioners are always free to file a suit for declaration and correction in the revenue record before appropriate forum in accordance with law. It is, however, made clear that any observations made either by the District Collector or the Board of Revenue or even by this Court shall not come in the way of the petitioners for claiming their rights in the suit, if so filed by them.

With above observations, both the writ petitions are dismissed accordingly as having no merits.

(Ashok Parihar) J.

bnsharma